#### **SCHEDULE 4**

Regulation 20

### Contributions for additional pensions

# Interpretation

- 1. In this Schedule—
  - "AP beneficiary" means—
  - (a) in the case of an election under paragraph 2(1), the person who makes the election, and
  - (b) in the case of an election under paragraph 2(2) or (3), the employee or former employee for whose benefit the election is made;

"dependant's election" means an election under paragraph 2, the notice of which states (in accordance with sub-paragraph (5)(b) of that paragraph) that the election is for an additional pension for both the AP beneficiary and the AP beneficiary's spouse, civil partner, surviving nominated partner or surviving nominated beneficiary;

"financial year" means the 12 months ending with 31st March;

"lump sum election" means an election under paragraph 2 which is not a monthly contribution election;

"monthly contribution election" means an election under paragraph 2, the notice of which states (in accordance with sub-paragraph (6)(b) of that paragraph) that contributions are to be paid in monthly payments;

"payment period" means, in relation to a monthly contribution election accepted by the Secretary of State, the period beginning on the start date and ending when the last of the monthly payments mentioned in the notice of the election is due to be paid;

"refund period" means the period ending 1 year after the start date;

"start date" means-

- (a) in the case of a lump sum election, the date on which the Secretary of State receives the lump sum, and
- (b) in the case of a monthly contribution election, the first day of the second month after the month in which the AP beneficiary is notified that the election is accepted.

## Election to pay contributions for additional pension

- **2.**—(1) A person in pensionable employment who has not reached the age of 65 may elect to pay contributions for an additional pension by giving written notice to the Secretary of State.
- (2) The employer of a person in pensionable employment who has not reached the age of 65 may, with the consent of the employee, elect to pay contributions (as a lump sum) for an additional pension for the employee by written notice to the Secretary of State.
  - (3) The former employer of a person—
    - (a) who has ceased to be in pensionable employment, and
    - (b) whose average salary has been restricted under regulation 39

may, with the consent of the former employee, elect to pay contributions (as a lump sum) for an additional pension for the employee by giving written notice to the Secretary of State.

- (4) Any election under sub-paragraph (3) must be made within 6 months after the date on which the former employee ceased to be in pensionable employment.
  - (5) The notice must—

- (a) state the amount in respect of which the election is made, which must be a multiple of £250 or of such other sum as may be determined by the Secretary of State from time to time;
- (b) state whether the election is for an additional pension solely for the AP beneficiary or for both the AP beneficiary and the AP beneficiary's spouse, civil partner, surviving nominated partner or surviving nominated beneficiary;
- (c) contain such further information as may be specified by the Secretary of State; and
- (d) be accompanied by a declaration by the AP beneficiary that the AP beneficiary is in normal health.
- (6) Where the election is made under sub-paragraph (1), the notice must also state—
  - (a) whether the contributions are to be paid as a lump sum, or
  - (b) whether the contributions are to be paid in monthly payments and, if so, the number of monthly payments, which must not be more than 240.
- (7) The number of monthly payments must be such that the last is due be paid—
  - (a) where the AP beneficiary is a pre-2007 entrant who has not reached the age of 60, before the AP beneficiary reaches that age, and
  - (b) in any other case, before the AP beneficiary reaches the age of 65.
- (8) An election is accepted by the Secretary of State if the Secretary of State gives written notice to the person making it that it is accepted.

# Maximum amount of additional pension

- **3.**—(1) The amount in respect of which an election ("the new election") may be made must not exceed the maximum amount for the financial year in which notice of the new election is given to the Secretary of State less the sum of the uprated amounts in relation to each previous election made by, or for the benefit of, the AP beneficiary.
- (2) The maximum amount for the financial year ending on 31st March 2011 is the amount determined for that financial year under paragraph 18 or 19 of Schedule 2A to TPR 1997.
- (3) The maximum amount for a subsequent financial year is such amount as may be determined by the Treasury for that financial year in accordance with sub-paragraph (9).
- (4) But if no maximum amount has been determined for that financial year under sub-paragraph (3), the maximum amount for that financial year is the maximum amount for the financial year before that financial year ("the previous financial year") multiplied by the factor mentioned in sub-paragraph (5) if that factor is greater than 1, rounded to the nearest £100.
  - (5) The factor is RPI1/RPI2, where—
    - RPI1 is the retail prices index for February in the previous financial year, and RPI2 is the retail prices index for February in the financial year before the previous financial year.
  - (6) The uprated amount in relation to a previous election is—
    - (a) the amount stated in the notice multiplied by the factor mentioned in sub-paragraph (8) if that factor is greater than 1,
    - (b) where the AP beneficiary is credited with an amount in respect of the election in accordance with paragraph 7, 8 or 9, that amount multiplied by the factor mentioned in sub-paragraph (8) if that factor is greater than 1, or
    - (c) where the AP beneficiary was previously credited with an amount in respect of the election in accordance with paragraph 10, an amount determined by the Secretary of State having regard to the contributions paid and any contributions treated as paid under paragraph

- 10(6) multiplied by the factor mentioned in sub-paragraph (8) if that factor is greater than 1.
- (7) But where notice of the previous election was given to the Secretary of State in the same financial year as notice of the new election is to be given, the uprated amount in relation to the previous election is—
  - (a) the amount stated in the notice,
  - (b) where the AP beneficiary is credited with an amount in respect of the election in accordance with paragraph 7, 8 or 9, that amount, or
  - (c) where the AP beneficiary was previously credited with an amount in respect of the election in accordance with paragraph 10, an amount determined by the Secretary of State having regard to the contributions paid and any contributions treated as paid under paragraph 10(6).
  - (8) The factor is RPI1/RPI2, where—
    - RPI1 is the retail prices index for February in the financial year before the financial year in which notice of the new election is given to the Secretary of State, and
    - RPI2 is the retail prices index for February in the financial year before the financial year which includes the start date for the previous election.
- (9) The Treasury is from time to time to review the operation of this paragraph and, as a result of such review, may determine the maximum amount for the financial year ending on 31st March 2012 or for any subsequent financial year.

### **Determination of contributions**

- **4.**—(1) The Secretary of State is from time to time determine the amount of the lump sum (in the case of a lump sum election) and the monthly payments (in the case of a monthly contribution election) to be paid as contributions for a given amount in respect of which an election is made.
  - (2) The amounts must be such that they reflect the cost of payment of pension—
    - (a) in the case of an AP beneficiary who is a pre-2007 entrant and has not reached the age of 60, at the age of 60, and
    - (b) in the case of any other AP beneficiary, at the age of 65.
  - (3) Different amounts may be determined—
    - (a) for different classes or descriptions of AP beneficiaries;
    - (b) depending on whether the election is a dependant's election;
    - (c) where the election is a monthly contribution election, depending on the length of the payment period.
- (4) The Secretary of State may exercise the functions under this paragraph so as to re-determine the amount of the monthly payments to be paid as contributions during the payment period.

# Lump sum election: payment of contributions and credit of additional pension

- **5.**—(1) This paragraph applies where the Secretary of State accepts a lump sum election.
- (2) Where the lump sum determined under paragraph 4 is paid to the Secretary of State within 1 month after the date on which the person who makes the election is notified that the election is accepted, the AP beneficiary is to be credited with the amount stated in the notice of the election.
- (3) But where the AP beneficiary dies before the end of the refund period or an ill-health pension becomes payable to the AP beneficiary by virtue of the AP beneficiary becoming incapacitated before the end of that period—

- (a) the lump sum must be repaid, and
- (b) the AP beneficiary is not to be credited with an amount in respect of the election.
- (4) Sub-paragraph (3) does not apply where before the end of the refund period an additional pension attributable to the election (calculated by reference to an amount credited in accordance with sub-paragraph (2)) became payable to the AP beneficiary with a retirement pension (other than an ill-health pension) or a phased retirement pension.

## Monthly contribution election: payment of contributions and credit of additional pension

- **6.**—(1) This paragraph applies where the Secretary of State accepts a monthly contribution election.
- (2) The AP beneficiary must pay monthly payments determined under paragraph 4 to the Secretary of State during the payment period.
- (3) The first payment under sub-paragraph (2) is to be made by the last day of the second month after the month in which the AP beneficiary is notified that the election is accepted.
- (4) The reference in sub-paragraph (2) to monthly payments determined under paragraph 4 includes, as from 1st April following any redetermination of monthly payments under that paragraph, a reference to monthly payments as redetermined.
- (5) Where payments are made in accordance with sub-paragraph (2), the AP beneficiary is to be credited with the amount stated in the notice of the election.
  - (6) Where any of paragraphs 7 to 11 applies—
    - (a) monthly payments cease to be payable, and
    - (b) the AP beneficiary is not to be credited with an amount in respect of the election under this paragraph.

# AP beneficiary becoming entitled to pension during payment period

- 7.—(1) This paragraph applies where before the end of the payment period—
  - (a) a retirement pension (other than an ill-health pension) becomes payable to the AP beneficiary of the election mentioned in paragraph 6, or
  - (b) where the AP beneficiary makes an election under regulation 73(2), a phased retirement pension becomes payable to the AP beneficiary.
- (2) The AP beneficiary is to be credited with an amount determined by the Secretary of State having regard to the contributions paid and any contributions treated as paid under paragraph 10(6).

### AP beneficiary revoking election during payment period

- **8.**—(1) This paragraph applies where the AP beneficiary of the election mentioned in paragraph 6 revokes the election by giving written notice to the Secretary of State before the end of the payment period.
- (2) The AP beneficiary is to be credited with an amount determined by the Secretary of State having regard to the contributions paid and any contributions treated as paid under paragraph 10(6).
- (3) Where contributions due under paragraph 6 remain due after the expiry of 3 months after the AP beneficiary receives a written demand from the Secretary of State, the AP beneficiary is to be treated for the purpose of this Schedule as revoking the election.

### AP beneficiary ceasing to be in pensionable employment during payment period

- **9.**—(1) This paragraph applies where the AP beneficiary of the election mentioned in paragraph 6 is out of pensionable employment for a continuous period of at least 1 month before the end of the payment period other than by reason of the AP beneficiary's death.
- (2) But this paragraph does not apply where paragraph 7 applies before the end of the 1-month period.
- (3) Where the AP beneficiary pays a lump sum of such amount as may be determined by the Secretary of State to the Secretary of State within 2 months after the date on which the AP beneficiary ceases to be in pensionable employment, the AP beneficiary is to be credited with the amount stated in the notice of the election.
- (4) Except where sub-paragraph (5) applies, if no such lump sum is paid, the AP beneficiary is to be credited with an amount determined by the Secretary of State having regard to the contributions paid and any contributions treated as paid under paragraph 10(6).
  - (5) This sub-paragraph applies where—
    - (a) an ill-health pension becomes payable to the AP beneficiary immediately following a period of non-pensionable sick leave which immediately follows a period of pensionable employment, and
    - (b) that period of non-pensionable sick leave includes the 1-month period mentioned in sub-paragraph (1).
- (6) For the purpose of this paragraph, an AP beneficiary who makes, or is treated as making, an election under regulation 19 (election to pay contributions by a person serving in a reserve force) is to be treated as being in pensionable employment during any period which, in accordance with that regulation, is to be treated as reckonable service.

### Incapacity of AP beneficiary during payment or refund period

- **10.**—(1) This paragraph applies where an ill-health pension becomes payable to the AP beneficiary of the election mentioned in paragraph 6 before the end of the payment period or, if the refund period ends after the payment period, by virtue of the AP beneficiary becoming incapacitated before the end of the refund period.
  - (2) But this paragraph does not apply where before the ill-health pension becomes payable—
    - (a) an additional pension attributable to the election became payable to the AP beneficiary (see paragraph 7),
    - (b) the AP beneficiary revoked the election (see paragraph 8), or
    - (c) except where paragraph 9(5) applies, the AP beneficiary was out of pensionable employment for a continuous period of at least 1 month (see paragraph 9).
  - (3) Where the AP beneficiary becomes incapacitated before the end of the refund period—
    - (a) the monthly payments must be repaid to the AP beneficiary, and
    - (b) the AP beneficiary is not to be credited with an amount in respect of the election.
- (4) This sub-paragraph applies where the AP beneficiary becomes incapacitated after the end of the refund period.
  - (5) Where sub-paragraph (4) applies, the AP beneficiary is to be credited with—
    - (a) if the declaration required by paragraph 2(5)(d) was made in good faith, the amount stated in the notice of the election, or
    - (b) if that declaration was not made in good faith, an amount determined by the Secretary of State having regard to the contributions paid.

(6) Where sub-paragraph (4) applies, the AP beneficiary is, while in receipt of the ill-health pension, to be treated as having paid the contributions which would, but for paragraph 6(6)(a), have been payable.

# Death of AP beneficiary during payment or refund period

- 11.—(1) This paragraph applies where the election mentioned in paragraph 6 is a dependant's election and the AP beneficiary dies before the end of the payment period or, if the refund period ends after the payment period, the end of the refund period.
  - (2) But this paragraph does not apply where before the AP beneficiary's death—
    - (a) an additional pension attributable to the election became payable to the AP beneficiary (see paragraph 7),
    - (b) the AP beneficiary revoked the election (see paragraph 8), or
    - (c) the AP beneficiary was out of pensionable employment for a continuous period of at least 1 month (see paragraph 9).
  - (3) Where the AP beneficiary dies before the end of the refund period—
    - (a) the monthly payments must be repaid to the AP beneficiary, and
    - (b) the AP beneficiary is not to be credited with an amount in respect of the election.
- (4) Where the AP beneficiary dies after the end of the refund period, the AP beneficiary is to be credited with—
  - (a) if the declaration required by paragraph 2(5)(d) was made in good faith, the amount stated in the notice of the election, or
  - (b) if that declaration was not made in good faith, an amount determined by the Secretary of State having regard to the contributions paid.

### **Actuarial advice**

**12.** The Secretary of State must take advice from the scheme actuary before determining any amount under paragraphs 3, 4 and 7 to 11.